IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4343 of 1996

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : YES

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ABDULSATTAR YUSUFBHAI QURESHI
Versus
STATE OF GUJARAT

Appearance:
MR ARUN H MEHTA for Petitioners
MR ARUN D. OZA GOVERNMENT PLEADER for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE M.S.SHAH

Date of decision: /01/2001

C.A.V. JUDGEMENT

(Per : CHIEF JUSTICE MR DM DHARMADHIKARI)

#. The petitioners are engaged in the business of slaughter and selling of meat of bulls, bullocks and

other animals. By this petition, they question the constitutional validity of the Notification dated 11-12-1989 published in Government Gazette dated 13-12-1989 by the State of Gujarat, which is purported to have been issued by it in exercise of its powers conferred under clause (b) of subsection (1) and clause (g) of subsection (2) of Section 4 and clause (a) of subsection (1) of Section 5 of the Gujarat Essential Commodities and Cattle (Control) Act, 1958 (hereinafter referred to as `the Act of 1958') as applicable to the State of Gujarat. By the impugned Notification, the earlier Notification issued on the same subject and under the same provisions of law dated 15-10-1976 has been modified, in so far as the imposition of ceiling of maximum number of bulls and bullocks that may be slaughtered in the City of Ahmedabad. Prior to the impugned Notification, the existing Notification dated 15-10-1976 published in Government Gazette dated 15-11-1976 issued under the provisions of Section 4 and 5 of the Act prescribed maximum limits for slaughter of bulls and bullocks in different States. For Ahmedabad City, the permissible maximum number of bulls and bullocks that may be slaughtered in a week was 363. By the impugned Notification issued on 11-12-1989 and published on 13-12-1989, only for Ahmedabad City the permissible maximum limit of number of bulls and bullocks that may be slaughtered is stated to have been ludicrously reduced from 363 per week to 60 per year.

#. The petitioners challenge the validity of the impugned Notification on several grounds. Firstly, it is submitted that repeated attempts made by State of Gujarat and other States like Madhya Pradesh to impose complete ban on slaughter of bulls and bullocks did not succeed. The Supreme Court struck down such complete ban on slaughter of such bulls and bullocks which have outlived their utility on the ground that it is unreasonable restriction on the fundamental right of the dealers in meat and those engaged in the business of slaughter houses under Article 19(1)(g) of the Constitution of India. Reliance is placed on the decision of the Supreme Court in the case of Hasmattullah v. State of Madhya Pradesh AIR 1996 SC 2076 in which all earlier decisions of the Supreme Court earliest from the case of Mohd. Hanif Quareshi v. State of Bihar AIR 1958 SC 731, Abdul Hakim Quraishi v. State of Bihar AIR 1961 SC 448 and lastly Mohd. Faruk v. State of Madhya Pradesh AIR 1970 SC 93 have been considered to hold that total ban of slaughter of bulls and bullocks is ultravires the Constitution.

#. On behalf of the petitioner, learned Sr. Counsel Shri Arun Mehta contends that the impugned Notification putting such ludicrously low ceiling on slaughter of bulls and bullocks in Ahmedabad City is nothing but an indirect attempt to impose complete ban on slaughter of bulls and bullocks. Reducing the maximum permissible number of slaughter to 60 bulls and bullocks per year virtually amounts to one bullock per week, and it is so ludicrously low that it virtually deprives the petitioners of their right to trade in slaughter of bulls and bullocks and in dealing in business of selling beef. In this respect, it is submitted that meat of bulls and bullocks is a non-vegetarian diet of poorer sections of the society belonging to Muslims, Christians and even modern Hindu community. The impugned Notification is nothing but an attempt to appease the religious sentiments of a section of citizens who believe in vegetarianism and are against killing of cow and its progeny. The contention, thus, is that issuance of the impugned Notification, in effect, is an exercise of fraud upon the powers of the State Government.

#. The next ground urged is that as the Preamble and the provisions of Section 4 and 5 of the Act show the enactment was not brought into force for the purpose of limiting the number of animals which can be slaughtered. The purpose of the Act was to control production, supply and distribution of essential commodities and cattle. As the objects and reasons of the Act read, `large scale export of cattle from Gujarat necessitated passing of the Act with suitable provisions to check such export of cattle and prevent reduction of cattle wealth of the State'. The contention, therefore, advanced is that provisions of Section 4 and 5 of the Act do not authorise the issuance of any order or Notification by the State Government putting a ban on the slaughter of bulls and bullocks or fixing a maximum number of bulls and bullocks which can be slaughtered.

#. On behalf of the State, the impugned Notification has been supported on the basis of facts and figures mentioned in the additional affidavit filed in reply by Shri K.N. Patel, Under Secretary, Agriculture and Cooperation Department, Government of Gujarat, the details of which we shall deal with at the appropriate stage. In substance, the stand of the State Government is that the maximum limit of slaughter of bulls and bullocks in Ahmedabad City has to be kept at low figure as maximum slaughter of bulls and bullocks was being made in Ahmedabad City and there has been an appreciable fall in the population of bulls and bullocks in the State.

Bulls and bullocks in great numbers died because of severe drought conditions. Even aged bulls and bullocks, to some extent, fulfil the need of the agriculturists as they are employed in agriculture fields and for carting. The steep fall in the cattle population of the State necessitated reducing the limit of slaughter of bulls and bullocks in Ahmedabad City where the slaughter houses are maximum in operation because of very high limit fixed for slaughter. On behalf of the State, it is submitted that by reducing the ceiling limit of slaughter of bulls and bullocks in Ahmedabad City, there has been no attempt to put a complete ban on slaughter of bulls and bullocks, as no reduction in the limit of number of bulls and bullocks to be slaughtered in other cities has been made.

#. Learned counsel appearing for the petitioner, in his counter reply submitted that apart from grounds urged on the invalidity of the Notification, based on Article 19(1)(g) and Article 21 of the Constitution, the action of the State Government is also discriminatory under Article 14 because by the impugned Notification the ceiling limit of slaughter of bulls and bullocks only in Ahmedabad City has been reduced to such a low figure as 60 per year, whereas, in other cities like Dholka, Borsad, Dahod, Surat, Nadiad, Petlad and others mentioned in the earlier Notification dated 15-10-1976, the same maximum limit of more than 60 bulls and bullocks permitted to be slaughtered within a week has been maintained. It is submitted that there is no justification to drastically reduce the quota of slaughter of bulls and bullocks only for Ahmedabad City from 363 per week to 60 per year.

#. The existing Notification dated 15-10-1976 published in Government gazette dated 18-11-1976 in its Schedule provided for higher quota per week for slaughter of bulls and bullocks in City of Ahmedabad and other big and small cities of Gujarat mentioned therein. The full Notification needs to be reproduced for better appreciation of the arguments advanced by the parties:

"THE GUJARAT GOVERNMENT GAZETTE
PUBLISHED BY AUTHORITY
Thursday, November 18, 1976/Kartik 27, 1896
PART IV-B

Rules and orders (other than those published in Parts I, I-A) made by the Government of Gujarat under the Gujarat Acts.

AGRICULTURE, FORESTS AND COOPERATION DEPARTMENT

NOTIFICATIONS
Sachivalaya, Gandhinagar, 15th October, 1976.

BOMBAY ESSENTIAL COMMODITIES AND CATTLE (CONTROL) ACT, 1958

NO. GHKH/188/76/SLT/1173/66928/R

In exercise of the powers conferred under clause (b) of sub-section (1) and clause (g) of sub-section (2) of Section 4 and clause (a) of sub-section (1) of Section 5 of the Bombay Essential Commodities and Cattle (Control) Act, 1958 (Bom.LXII of 1958) and in supersession of all the previous Notification issued on this behalf, the Government of Gujarat hereby orders that with effect on and from the issue of this notification, the number of (i) buffaloes and (ii) bulls and bullocks that may be slaughtered during any week commencing on Sunday at a slaughter house situated at the place specified in column 2 of the Schedule appended hereto shall not exceed the number respectively specified against that place in columns 3 and 4 thereof.

SCHEDULE

Sr.No.	Place	Max.No.of buffaloes that may be slaughtered in a week.	Max. No. of bulls and bullocks (in aggregate) that may be slaughtered in a week.
1.	Ahmedabad	212	363
2.	Dholka	5	100
3.	Kalol (Dist.Mehsana)	4	5
4.	Chhota Udepur	7	2
5.	Surat	100	20
6.	Rander	1	5
7.	Kapadvanj	40	6
8.	Borsad	141	158
9.	Nadiad	132	44
10.	Petlad	35	35
11.	Cambay (Khambat)	35	28

12. Bhalej 40 10
13. Anand 45 28
14. Balasinor 7 14
15. Godhra 22 75
16. Dohad 12 100
17. Lunawada - 7
18. Bharuch 60 20
19. Ankleshwar 16 5
20. Jambusar - 1
21. Valsad - -
22. Junagadh 177 -
23. Una 30 -
24. Kutiana 15 -
25. Mangrol 80 -
26. Rajkot 40 -
27. Doraji 150 -
28. Gondal 25 -
29. Maliamiyana 7 -
30. Dasada 7 -
31. Bhavnagar 18 -
32. Mahuva 6 -

By order and in the name of the Governor of Gujarat.

Sd/-
(M.T. Joshi)
Under Secretary to Govt.

#. By the impugned Notification dated 11-12-1989 published in Government Gazette dated 13-12-1989 the existing Notification of 1976 has been amended for reducing the quota for slaughter of bulls and bullocks in City of Ahmedabad only and the quota, instead of per week, is fixed per year. The contents of the impugned Notification also deserve reproduction in full as under:

THE GUJARAT GOVERNMENT GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol.XXX Wednesday, December 13, 1989/AGRAHAYANA 22,1911

AGRICULTURE AND RURAL DEVELOPMENT DEPARTMENT
NOTIFICATION

Sachivalaya, Gandhinagar, 11th December, 1989

BOMBAY ESSENTIAL COMMODITIES AND CATTLE (CONTROL) ACT, 1958

NO.GHKH-23-89-SLT-1489-2925.P-1.

In exercise of the powers conferred by clause (b) of sub-section (1) and clause (g) of sub-section (2) of Section 4 and clause (a) of sub-section (1) of Section 5 of the Bombay Essential Commodities and Cattle (Control) Act, 1958 (Bombay LXII of 1958) and in modification of Government Notification, Agriculture Forests and Cooperation Department No. GHKH/188/76/SLT1173/66928/R. dated 15th October, 1976 the Government of Gujarat hereby orders that so far as the City of Ahmedabad is concerned, the maximum number of bulls and bullocks (in aggregate) that may be slaughtered in a year, should not exceed 60. The schedule attached to the said Notification dated the 15th October 1976 should be treated as amended to that extent.

By order and in the name
of the Governor of Gujarat
Sd/-
(A.G. Bhatt.)
Under Secretary to Government."

#. We shall take up for consideration first the ground urged that the impugned Notification fixing a limit for slaughter of bulls and animals is outside the provisions contained in Section 4 and 5 of the Act. The Preamble of the Act and Section 4(1) which is relevant for our purposes read as under:-

"Preamble. - An Act to provide, in the interests of the general public, for the control and regulation of the production, movement, supply and distribution of and trade and commerce in certain commodities and maintenance and movement of cattle.

Whereas, it is expedient to provide, in the interest of the general public, for the control and regulation of the production, movement, supply and distribution of certain commodities essential to the life of the community and for the control and regulation of trade and commerce therein, and for the maintenance, licensing and movement of cattle, and the licensing of dealers in such commodities and cattle, and for certain other purpose. It is hereby enacted in the Ninth Year of the Republic of India as follows:-"

"4. Powers to control production, supply, distribution, etc. If the State Government is of opinion that it is necessary or expedient so to do for maintaining or increasing the supply, or for securing the equitable distribution and availability at fair prices, of any essential commodity or cattle, it may, by order provided:

(a) for regulating or prohibiting the production, supply and distribution of, or trade and commerce in, such essential commodity;

(b) for regulating or prohibiting movement, supply and distribution of or trade and commerce in, or for regulating the maintenance of, cattle."

##. As the Preamble of the Act and the Section quoted above clearly show that it is an enactment to control and regulate the essential commodities including cattle in the interest of general public. Subsection (1) of Section 4 by its express language authorises the State Government to issue orders found necessary or expedient for regulating the trade and commerce in any essential commodity or cattle. Clause (b) of subsection (1) of Section 4 is a clear provision which enables the State Government to issue order to regulate or prohibit trade or commerce in cattle in the interest of general public. Taking into consideration the object of the Act as disclosed in the Preamble and from other provisions, a very narrow construction on Section 4, as is sought to be put on behalf of the petitioner, cannot be accepted. Section 4 empowers the State Government to regulate the trade in cattle in general public interest and for that purpose, issue orders regulating or prohibiting movement, supply and distribution of or trade and commerce in cattle. The provision contained in clause (b) of subsection (1) of Section 4, therefore, fully empowers the State Government to issue an order prohibiting or restricting the trade in cattle. Such power of regulating or prohibiting trade in cattle includes fixation of the ceiling for slaughter of cattle. The argument, therefore, advanced on behalf of the petitioners cannot be accepted that the provisions of Section 4 and 5 do not permit issuance of impugned order or Notification to restrict or limit the number of cattle like bulls and bullocks to be slaughtered in slaughter houses.

##. The other grounds urged in challenging the impugned Notification on the basis of alleged violation of a fundamental right of trade under Article 19(1)(g) right

of life under Article 21 and discrimination under Article 14 of the Constitution of India can be taken up for decision conjointly.

##. At this stage, it is necessary to deal with the justification shown by the State in their affidavit for issuing the Notification under challenge. The Under Secretary of the concerned Department on affidavit has stated that population of bullocks in the year 1982 was 30.70 lakhs and by 1988 it decreased upto 6.6%, i.e., 28.42 lakhs and in the year 1992 it further decreased upto 6.6.%, i.e., 28.76 lakhs. It is stated that bullocks are used not only for agricultural work but also for other purposes. The bulls and bullocks are source of free availability of farm yard manure. It is stated that bullock is the backbone of work power in various agricultural operations like ploughing, tilling, weeding, seeding, harvesting and other operations etc. as well as for carting purpose. It is further claimed that bullocks are natural, renewable energy source ecologically sustainable, as it consumes available grasses, crop residues and agricultural by-products. The bullocks cause less pollution and environmental damages than the motorised alternative.

##. The greater emphasis in the reply affidavit of the State is on the fast decreasing cattle wealth of the State particularly of bulls and bullocks. It is stated that population of bulls continues to decrease from 1982 to 1988 and almost 6.6% decrease was found. There has been unprecedented drought and famine conditions in 1985-86, 1986-87 and 1987-88 and also the same condition continues from 1998-99. According to the figures collected on a survey made by its Veterinary Department, it has been stated in the affidavit of the State that the quantity of slaughter of bulls and bullocks was high in the City of Ahmedabad, i.e., 363 per week. According to the State, the ceiling limit of slaughter in Ahmedabad City was required to be reduced since the number of bullocks in the State had considerably decreased. The bulls and bullocks even aged are sometimes required in agricultural operations by the marginal farmers and small farmers.

##. An affidavit by way of rejoinder has been filed by the petitioner pointing out that the Supreme Court in the case of Hasmatulla (supra) and other earlier decisions considered in that case has held that putting a complete ban on slaughter of bulls and bullocks above 16 years of age is a serious inroad on the fundamental right of traders in meat and cattles. It is, therefore, contended

on behalf of the petitioner that no limit for slaughter of animals above 16 years of age can be imposed, as it has been now fully settled that bulls and bullocks above 16 years of age have outlived their utility and they are found to be a burden on the society.

##. An affidavit in reply has been filed by the State. In this additional affidavit, it is stated that number of slaughter of bulls and bullocks in Ahmedabad between the years 1980-81 and 1986-87, i.e., for a period of 7 years, was very less and it was only 371 for all these years which comes to average annually 53 only. Despite number of slaughter was meagre annually in Ahmedabad, the annual quota of slaughter of bulls and bullocks was fixed at 18876 per year by the Government. As a result of such high ceiling limit during 1987-88 and 1988-89 slaughter of bulls in Ahmedabad increased as under:

1987-88 9040
1988-89 14036
1989-90 10422

##. Along with the affidavit, Annexure I, in a statement form, has been filed to show figures of animals slaughtered during the year 1982-83 to 1993-94. As has been shown from the chart before fixing a high limit in the year 1979-80 total number of bulls and bullocks slaughtered in the year were only 13,337. But soon after the fixation of higher limit of 363 per week for City of Ahmedabad under the Notification dated 15-10-1976, number of animals slaughtered between 1986-87 and 1988-89 went very high as shown above in the Chart. It is because of this high ceiling limit of permissible number of slaughter of bulls and bullocks in Ahmedabad City, cattle from adjoining districts were brought to Ahmedabad for slaughtering when there was no requirement or need of slaughter of animals for Ahmedabad City. It was found that the annual average fixed was that of a very high level. It is stated that after the imposition of limit for slaughter of animals only above age of 16 years because of high quota fixed for Ahmedabad, the slaughtering tremendously increased in the years 1987-88 in Ahmedabad City. It is under these circumstances that the Government thought it fit to abolish the weekly quota of slaughter of bulls and bullocks for Ahmedabad City. The earlier quota which was fixed was prior to enforcement of provisions with regard to restricting slaughter of bulls and bullocks below 16 years of age. The quota, therefore, earlier fixed, without keeping in view the permissible age at which the bulls and bullocks could be slaughtered, required reconsideration after the

Supreme Court decision holding slaughter of bulls and bullocks above 16 years of age permissible as in that age they are considered to have outlived their utility for all purposes. With the criteria of age of cattle for slaughter, it was found meaningless to continue the same quota and it was decided to revise the quota on the basis of average of the annual number of bulls and bullocks slaughtered from the year 1980-81 to 1986-87. It was further decided to issue instructions for surveys for slaughter of animals. In accordance with the provisions of Bombay Animal Preservation Act, bulls and bullocks above 16 years only can be allowed to be slaughtered. The State Government has also filed Annexure II in statement form to show steep decrease of adult male cattle, more particularly, in Ahmedabad district. It is also stated that average life span of bulls and bullocks is 20-25 and it may go up to 30 years. The State Government also collected figures on the basis of its survey in statement form at Annexure IV to show that agricultural operations are mainly based on bulls and bullocks and not on tractors. It was felt necessary to maintain the cattle for agriculture and their use in carts.

##. The main attack to the impugned Notification is on the ground that by ludicrously reducing the quota of slaughter of bulls and bullocks in Ahmedabad City from 363 per week to 60 per year an indirect attempt has been made to again to put almost a complete ban on slaughter of bulls and bullocks in the City of Ahmedabad. It is a serious inroad on fundamental right under Article 19(1)(g) of the petitioners as traders in meat and in running of slaughter houses.

##. From the earlier decisions of the Supreme Court which are taken note of in case of Hasmattullah (supra) of Supreme Court and in Mirzapur Moti Kureshi Kassab Jamat v. State of Gujarat and others XL(3) 1999 (3) GLR 2007 of this Court, the legal position is now well settled that a complete ban on slaughter of bulls and bullocks is an unreasonable restriction on the fundamental right of trade in meat or beef of those dealing in them. The Supreme Court and this Court in decisions (supra) has however upheld the restriction imposed of not permitting slaughter of bulls and bullocks below 16 years of age and of all without proper pre-certification by the competent authorities. Mention need be made of another important legislation on the subject, namely, the Bombay Animal Preservation Act, 1954 which by its provisions prohibit slaughter of bulls and bullocks below the age of 16 years as upto that age they

are found useful to the society particularly the agriculturists for breeding and their agricultural operations. The State of Gujarat sought to amend by Gujarat Act No. IV of 1994 the Bombay Animal Preservation Act, 1954 as applicable to the State of Gujarat to impose complete ban on slaughter of cow and its progeny including bulls and bullocks of whatever age. The constitutional validity of the said Gujarat Act No. 4 of 1994 was challenged by associations of Kureshi Kassab Jamat in this Court in decision reported in 1993(3) GLR 2007. Relying on the decisions of the Supreme Court including the latest one in the case of Hasmattullah (supra) of Supreme Court, this Court came to the conclusion that attempt by law to impose complete ban on slaughter of bulls and bullocks of whatever age cannot be held to be a reasonable restriction on the fundamental right of trade of those engaged in running slaughter houses and selling meat or beef.

##. The contention advanced in this petition on behalf of the petitioners is that as the State of Gujarat failed in its attempt in bringing a valid amendment to the Bombay Animal Preservation Act, 1954, the same purpose is being indirectly sought to be achieved by issuance of the impugned order or Notification under the Act of 1994 whereby reducing the quota of slaughter of bulls and bullocks from 363 per week to 60 per year, the fundamental right to trade in beef has almost be negatived.

##. The clause (6) of Article 19 of the Constitution of India permits imposition of `reasonable restrictions' by law by the State on exercise of fundamental right guaranteed to citizens to carry on their occupation, trade or business. The determination by the Legislature of what constitutes `reasonable restriction' is not final or conclusive. It is subject to the supervision of the Court (See Chintamanrao v. State of M.P. (1950) S.C.R. 750. The power to impose reasonable restriction under Article 19(6) is with a purpose to strike a balance between the freedom guaranteed by subclause (1) of Article 19 and the social control permitted by any of the clauses (2) to (6). It connotes that limitation imposed on a person in the enjoyment of a right could not be arbitrary or of an excessive nature beyond what is required in the interest of the public.

##. It is also well settled that religious feelings or sentiments of a section of people have absolutely no relevance and the reasonableness of restriction has to be determined in an objective manner and from the stand

point of the interest of the general public and not from the point of view of the persons upon whom the restrictions are imposed (See Mohd. Hanif Quareshi v. State of Bihar AIR 1958 SC 731). The test of reasonableness has to be considered in relation to each case depending upon the nature of fundamental right sought to be infringed or curtailed. The nature of right alleged to have been infringed, the underlying purpose of the restriction imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time are all matters relevant for judicial verdict. (See Laxmi v. State of U.P. AIR 1981 SC 873 and Trivedi v. State of Gujarat AIR 1986 SC 1323 (paras 68 and 75)). In judging reasonableness of a law the Court can legitimately see the existing circumstances and all contemporaneous legislation because what is to be judged is the reasonableness of the restriction.

##. When a restriction imposed on a fundamental right is challenged describing it as unreasonable, the burden is on the State to justify the restriction as being reasonable. Reasonable restriction in certain kinds of trades, such as dealing in intoxicants, dealing in dangerous goods such as explosives, trafficking in women or toutism may go to the extent of completely prohibiting them. The trade in meat or running of slaughter houses cannot be held to be inherently a dangerous trade so as to justify its complete prohibition. The trade in meat, however, is dependent upon living creatures. The State can, therefore, impose reasonable restriction on slaughter of animals to preserve certain species of creatures.

##. In the instant case, in substance two justifications have been shown on behalf of the State as reasonable restrictions for drastically reducing the quota of slaughter of bulls and bullocks in Ahmedabad City alone. In the additional affidavit in reply which has been dealt with in detail, while stating the facts of the case above, it has been stated that because of successive drought conditions in State of Gujarat, there has been a steep fall in the population of bulls and bullocks. Their preservation is found necessary because even bulls which are aged above 16 years are not completely useless for some kind of agricultural operations and for use in carts by marginal farmers and poorer members of rural and urban society.

##. The second justification and more important, in our opinion, is shown in the additional affidavit submitted

by the State through its under Secretary in the concerned Department on 4-12-2000. In the said affidavit which has already been dealt with in detail above, the reduction of quota is said to be necessitated because of several legislative changes that took place between the year 1978 to 1989. As a result thereof the impugned Notification containing the order of reduction of the quota came to be issued. Section 5 of Bombay Animal Preservation Act, 1954, as applicable to State of Gujarat, was amended by Gujarat Act No. 23 of 1979 by adding subsection (1A) to Section 5 of the said Act. By the aforesaid amendment made in 1979 effective from 28-11-1978 bulls and bullocks below 16 years of age could not be slaughtered. Prior to the above amendment introduced by subsection (1A) to Section 5, bulls and bullocks of all ages could be slaughtered. This prescription of age limit for slaughter of bulls and bullocks has been upheld by the Supreme Court as well as by this Court. In their additional reply affidavit submitted on 4-12-2000, the State Government has given facts and figures to show that between the years 1980-81 to 1986-87 (i.e. long 7 years period) the slaughter of bulls and bullocks in Ahmedabad City was 371, i.e., on average annually 53 only. Despite the above meagre figure of slaughter annually in Ahmedabad, the annual quota of slaughter of bulls and bullocks was fixed 363 per week, i.e., 18876 per year which was much above annual average of 371 for the last seven years period between 1980-81 to 1986-87. According to the affidavit of the State Government, it was found that because of unreasonably very high quota fixed per week for Ahmedabad city disproportionate to the actual demand of beef, slaughter in Ahmedabad City of bulls and bullocks tremendously increased, may be, because cattle from outside Ahmedabad City were brought to slaughter houses at Ahmedabad because of very high quota in the City and partly, as was brought to the notice of the Government by several organisations working for preserving cow and its progeny, that there were illegal slaughtering of animals i.e, bulls and bullocks in Ahmedabad City. Along with the affidavit, a statement in Annexure I has been filed to show that after fixation of a very high quota per week for Ahmedabad City, suddenly, the slaughtering of bulls and bullocks in Ahmedabad City increased to 9043 for the year 1987-88, 14036 for the year 1988-89 and 10422 for the year 1989-90. The Government after conducting the survey and collecting the figures came to the conclusion that only because of fixation of a very high quota for Ahmedabad City, slaughter of bulls and bullocks in Ahmedabad City alone has tremendously increased, disproportionate to the demand of meat of that animal. It was, therefore,

decided to bring down the quota for Ahmedabad City. By issuing amendment to the existing Notification in the year 1989, the Government has made an attempt to bring down the quota proportionate to the demand of beef in the City and for that the average figures of slaughters between 1980-81 to 1986-87 have been taken into consideration. The extraordinary spurt in slaughtering of bulls and bullocks in the years 1987-88 to 1989-90 was found attributable to the fixation of very high quota for Ahmedabad City disproportionate to the quota fixed in other cities and the demand of this kind of flesh, i.e., beef.

##. The justification shown in reducing the quota by the State in its additional affidavit has not satisfactorily been met by the petitioners by their affidavit in rejoinder. This Court finds no reason to reject the facts and figures mentioned in the affidavit and additional affidavit filed by the State to justify the reduction of quota for slaughter of bulls and bullocks in Ahmedabad City alone. The restriction imposed has been justified on two grounds, i.e., over all fall of population of bulls and bullocks in the State of Gujarat because of successive drought conditions and fixation of an unreasonably high quota of slaughtering in Ahmedabad City. The existing quota was found to be not proportionate to the slaughtering quota in other cities and the demand of beef in the City of Ahmedabad.

##. In considering the question of reasonable restriction, therefore, this Court cannot merely look at the quota initially fixed in the Notification of 1976 of 363 per week and comparing the same with the present quota fixed under the impugned Notification of 1989 hold that the reduction of quota to such a low level is an indirect attempt to impose ban on slaughter of bulls and bullocks. The fundamental right of trade in meat of animals is carried on living creatures. It is the duty of the State to see that exercise of such right does not completely extinguish the specie of creatures which is useful to society. That is the Directive Principle under Article 48 and the constitutional Duty under Article 15(1A)(g) and (i). On the basis of justification shown by the State, it is not possible for us to hold that the reduction of quota of slaughter for Ahmedabad city in comparison with the earlier quota, is an unreasonable restriction on the fundamental right of the petitioners and it is an indirect attempt to put complete ban on slaughter of bulls and bullocks.

##. The ground urged on the basis of Article 21 of the

Constitution, has very little force. It is submitted that beef is a high protein diet for poor and banning slaughter of bulls and bullocks by reducing the quota to such a low level is deprivation of `right to life and livelihood'. It is not the case of the petitioners that they are dealing in meat of bulls and bullocks only. The fundamental right of the petitioners to carry on their trade in meat and flesh of other animals and even of bulls and bullocks to some extent is not taken away. So also the petitioners on behalf of beef eaters cannot be allowed to urge that they are unable to obtain a high protein cheap diet. No such complaint on behalf of beef eaters has been made. The petitioners as dealers in meat cannot be heard to say that they must be allowed to slaughter bulls and bullocks in same number as they were doing in the past and to sell beef in same quantities. We do not find that there has been any serious deprivation of fundamental right of the petitioners to carry on their trade of running slaughter houses and selling of meat/beef.

##. So far as the power of the State Government to restrict the slaughter of bulls and bullocks under the provisions of the Act is concerned, we have held above, that such power to regulate and prohibit trade in cattle flows from the provisions of Section 4. Issuance of an order or notification in exercise of powers under Section 4 and 5 is not a one time exercise of power. It has to be exercised from time to time depending upon the existing situations and the demands of the time. The quota fixed by the impugned Notification is not static and it is open to the State Government, depending upon its study based on periodic survey to increase or decrease the quota for City of Ahmedabad and other cities.

##. With the above clarification, we do not find any constitutional infirmity in the impugned Notification or order issued under the Act.

As a result of the discussion aforesaid, we dismiss this petition, but, in the circumstances without any order as to costs.

(D.M. DHARMADHIKARI, C.J.)

(M.S. SHAH, J)

[sndevu]